

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

ADAM PEARSON, et al.,

Plaintiffs,

v.

PORCH.COM INC., *a Delaware corporation*, **GOSMITH.COM INC.**, *a Delaware corporation*, **MATTHEW EHRLICHMAN**, *CEO and co-founder of Porch.com Inc and CEO of GoSmith Inc, in his individual capacity*, **DARWIN WIDJAJA**, *CTO and co-founder of GoSmith Inc and VP of Porch.com Inc in his individual capacity*, **BRENTON MARRELLI**, *CEO and co-founder of GoSmith Inc in his individual capacity*,

Defendants.

Case No. 3:20-cv-00697-JR

ORDER

IMMERGUT, District Judge.

On August 31, 2020, Magistrate Judge Jolie A. Russo issued her Findings and Recommendation (F&R), ECF 25, recommending that this Court grant the Motion to Dismiss filed by all Defendants, ECF 14, without prejudice and with leave to amend. Defendants timely filed objections to the F&R, ECF 27, and Plaintiffs filed a response to those objections, ECF 28.

This Court has reviewed de novo the portions of the F&R to which Defendants objected. For the following reasons, the Court adopts Judge Russo's F&R in part, as explained in this Order.

DISCUSSION

Under the Federal Magistrates Act ("Act"), as amended, the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If a party objects to a magistrate judge's F&R, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* But the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). Nevertheless, the Act "does not preclude further review by the district judge, *sua sponte*," whether de novo or under another standard. *Thomas*, 474 U.S. at 154.

Judge Russo found that Plaintiffs did not sufficiently allege injury in fact to satisfy Article III standing. ECF 25 at 6–9. This Court agrees with Judge Russo's analysis and adopts this portion of the F&R in full. Because constitutional standing is dispositive, this Court declines to address the remaining issues presented in the F&R. *See Fleck & Assocs., Inc. v. City of Phoenix*, 471 F.3d 1100, 1106 (9th Cir. 2006). Accordingly, this Court GRANTS Defendants' Motion to Dismiss with leave to amend. Plaintiffs should file an amended complaint within 14 days of the issuance of this Order.

IT IS SO ORDERED.

DATED this 19th day of October, 2020.

/s/ Karin J. Immergut
 Karin J. Immergut
 United States District Judge